

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2768 – SB 2965

May 10, 2010

**SUMMARY OF AMENDMENT (017068):** Deletes all language of the original bill. Requires drivers convicted of driving under the influence (DUI) who had a blood alcohol content of 0.15 percent or higher, were accompanied by a person under 18 years of age, or involved in a traffic accident that is the result of the driver's intoxication to operate only a motor vehicle with an ignition interlock device (IID). Requires drivers convicted of DUI who violate the implied consent law to operate only a motor vehicle with an IID if the driver also had a prior conviction of one of the following: a violation of implied consent in the past five years, underage driving while impaired, violation of the open container law, or reckless driving reduced from a DUI charge. Authorizes the court to permit a driver eligible for a restricted license to obtain an unrestricted license provided the driver has an IID installed at the driver's expense. Requires incarceration of any person required to have an IID installed who solicits another person to start a motor vehicle with an IID, any person who starts a motor vehicle for a person ordered to use an IID, any person who tampers with an IID, or any person who knowingly provides a motor vehicle to a person who is required to use an IID. Prohibits an IID provider from charging more than \$70 for installing one IID. Prohibits an IID provider from charging more than \$100 per month for leasing, purchasing, monitoring, removing, and maintaining an IID. Requires proof of installation to the Department of Safety (DOS) and notification of vehicle change. Requires DOS in consultation with the State Treasurer to conduct a study until January 1, 2012 to determine the amount of fee that should be established in order to keep the Interlock Assistance Fund (IAF) solvent, the maximum fees to be charged by IID providers, and the necessary requirements that should be established in order to ensure that providers have the ability to provide devices to any resident in the state. Defines a surplus as any amount in the IAF exceeding one and one-half times the amount used from the fund in the previous fiscal year. Requires DOS to report findings of the study to the House and Senate Judiciary Committees on or before January 1, 2012. Requires each driver convicted of DUI after July 1, 2010 to pay \$40 to the IAF. For all other purposes, this bill as amended will take effect January 1, 2011 and shall apply to offenses occurring on or after January 1, 2011.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –

\$303,600/Recurring/Interlock Assistance Fund  
\$55,200/Recurring/Earmarked For Various State Accounts  
\$49,500/Recurring/General Fund

Increase State Expenditures –

\$303,600/Recurring/Interlock Assistance Fund

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\$55,200/Recurring/Various State Accounts  
\$45,500/One-Time/General Fund

Increase Local Revenue – \$17,700/Recurring

Increase Local Expenditures – Not Significant/Recurring

Other Fiscal Impact – The Tennessee Hospital Association will be allocated \$55,200 per year for the sole purpose of making grants to hospitals designated as critical access hospitals under the Medicare Rural Flexibility Program.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

### **Increase State Revenue –**

**Net Impact – \$209,000/FY10-11/General Fund**

**Net Impact – \$209,000/FY11-12/General Fund**

**Net Impact – \$39,000/FY12-13 and Subsequent Years/General Fund**

**\$480,400/Recurring/Interlock Assistance Fund (IAF)**

**\$78,800/Recurring/Earmarked For Various State Accounts**

### **Increase State Expenditures –**

**\$51,600/One-Time/General Fund**

**\$28,600/Recurring/General Fund**

**\$231,800/FY10-11/IAF**

**\$463,500/FY11-12 and Subsequent Years/IAF**

**\$78,800/Recurring/Various State Accounts**

**Increase Local Revenue – \$37,900/Recurring**

**Increase Local Expenditures – Not Significant/Recurring**

**Other Fiscal Impact – The Tennessee Hospital Association will be allocated \$70,900 per year for the sole purpose of making grants to hospitals designated as critical access hospitals under the Medicare Rural Flexibility Program.**

Assumptions applied to amendments:

- According to the DOS, there were 3,877 restricted driver licenses issued on DUI convictions in 2008. The Department estimates that approximately 1,000 of the 3,877 drivers that obtained a restricted license will be approved to obtain an unrestricted license with an ignition interlock restriction. There would be a recurring decrease to state revenue of \$67,000 resulting from a decrease in restricted license fee revenue (1,000 fewer licenses x \$67.00 fee).
- According to DOS, 8,000 drivers convicted of DUI reinstate annually. DOS estimates that 2,000 will reinstate early as provided in this bill as amended. This will result in a

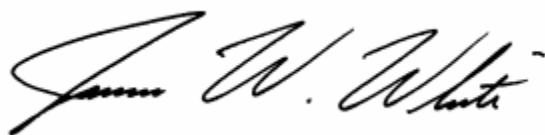
one-time increase to state revenue of \$300,000 (\$150 reinstatement fee x 2,000 drivers). Those 2,000 drivers would be required to apply for a driver license and pay an average fee of \$20. This will result in additional one-time state revenue of \$40,000 (\$20 fee x 2,000 drivers) for a total increase to one-time state revenue of \$340,000. According to DOS, fee revenue would return to current levels after the first year. The provisions of this bill as amended will become effective beginning January 1, 2011. The increase to state revenue will be distributed evenly over a 12 month period beginning on January 1, 2011. The total increase to state revenue will be \$170,000 in FY10-11 and \$170,000 in FY11-12.

- DOS will require computer program changes to capture the new type of convictions that require an interlock device. Thirteen programs would require changes at an approximate cost of \$3,500 per program for a one-time increase to state expenditures of \$45,500.
- DOS will require one additional Administrative Services Assistant 4 position in the Research, Planning, and Developmental Division to meet the requirements of this bill as amended. Total one-time costs associated with adding one new position will be \$5,600 (computer, telephone, supplies). Total recurring expenditures associated with the position will be \$48,300 (\$32,500 salary + \$12,300 benefits + \$3,500 operational expenditures). An increase to recurring state expenditures from the IAF of \$19,700 (allocated to DOS, see additional assumptions) and \$28,600 (\$48,300 - \$19,700) from the General Fund.
- According to DOS, there were approximately 21,000 DUI convictions in Tennessee in FY08-09. Approximately 15,750 will pay the one-time \$40 ignition interlock fee. Approximately 25 percent or 5,250 of these offenders will not pay due to indigence or declining to comply with the requirements.
- An amount of \$30.50 will be allocated from each fee to the IAF, \$4.50 to the Tennessee Hospital Association, \$1.25 to DOS, \$1.25 to the Department of Mental Health and Developmental Disabilities (MHDD), and a total of \$2.50 allocated to the Department of Finance and Administration (F&A).
- An increase to recurring state revenue of \$480,400 to the IAF (\$30.50 x 15,750).
- An increase in state revenue of approximately \$70,900 (15,750 x \$4.50) earmarked for the Tennessee Hospital Association for the purposes of making grants to hospitals that have been designated as critical access hospitals under the Medicare Rural Flexibility Program.
- An increase to recurring state revenue of \$19,700 (15,750 x \$1.25) earmarked for DOS to be used to defray the expenses of administering the provisions of this bill as amended.
- An increase to recurring state revenue of \$19,700 (15,750 x \$1.25) earmarked for MHDD to be earmarked for the Alcohol and Drug Addiction Treatment Fund.
- An increase to recurring state revenue of \$19,700 earmarked (15,750 x \$1.25) for F&A, Office of Criminal Justice programs, for the purpose of funding grant awards to local law enforcement agencies.
- An increase to recurring state revenue of \$19,700 (15,750 x \$1.25) earmarked for F&A, Office of Criminal Justice programs, for the purpose of funding grant awards to halfway houses whose primary focus is to assist drug and alcohol offenders.
- According to DOS, 1,163 restricted driver licenses were issued to individuals convicted of DUI while having a BAC of 0.15 percent or higher.

- An additional 660 drivers will be required to have an interlock device under the provisions of this bill.
- Twenty percent or 365 of these drivers will be declared indigent. This will result in approximately 1,458 additional non-indigent offenders.
- Approximately five percent or 73 non-indigent offenders will decline to comply with the requirements of installing and maintaining an IID.
- The maximum cost of installing and maintaining an IID for 12 months as allowed by this bill as amended is \$1,270. The total increase to recurring state expenditures from the IAF to cover all indigent offenders will be approximately \$463,500.
- According to F&A, as of January 2010, 2,743 Tennessee driver license holders had an interlock restriction; 580 license holders had an IID installed. These drivers currently pay the costs associated with an IID and are not considered indigent.
- According to DOS, approximately 1,000 DUI offenders otherwise required to obtain a restricted license will elect and be approved to have an IID installed, thus allowing these individuals to obtain an unrestricted license.
- The total number of DUI offenders paying to have an IID installed and maintained will be approximately 2,965 (1,823 additional offenders required + 580 current offenders required + 1,000 opt in offenders – 365 indigent – 73 non-compliant). The total increase in the number of offenders paying for an IID will be 2,385 (2,965 total – 580 current).
- The amount of taxable sales from the sale and lease of IID device equipment is estimated to be \$3,029,000 ( $2,385 \times \$1,270 = \$3,028,950$ ). Approximately 50 percent of these sales would occur in the absence of this bill. Therefore, the recurring increase to state revenue is estimated to be \$106,000 ( $\$3,029,000 \times 50\% \times 7\% \text{ tax rate} = \$106,015$ ).
- The net impact to recurring state revenue to the General Fund will be an increase of \$39,000 ( $\$106,000 - \$67,000$ ).
- An increase to local government revenue of approximately \$37,900 derived from an average local option sales tax of 2.5 percent ( $\$1,514,400 \times 2.5\%$ ).
- There will not be a sufficient number of prosecutions for violations of interlock requirements for state or local government to experience any significant increase to incarceration expenditures.
- Any amount in the IAF exceeding \$695,300 ( $\$463,500 \times 1.5 = \$695,250$ ) will be considered a surplus. The number of offenders remaining constant, there will not be a surplus, as defined in this bill as amended, for a period of at least ten years.

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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